

AMENDED IN ASSEMBLY MAY 28, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY APRIL 2, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1886

Introduced by Assembly Member Eggman

February 19, 2014

An act to amend ~~Sections 2027 and~~ *Section 2233 of, and to repeal and add Section 2027 of,* the Business and Professions Code, relating to physicians and surgeons.

LEGISLATIVE COUNSEL'S DIGEST

AB 1886, as amended, Eggman. Medical Board of California.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to post certain information on the Internet indefinitely regarding licensed physicians and surgeons and requires specified information, including any malpractice judgments, arbitration awards, and settlement information, to be posted for a period of 10 years.

This bill would ~~require~~ *revise and recast these provisions, and would, among other things, require* specified information, including enforcement actions, disciplinary actions, ~~malpractice civil~~ judgments, arbitration awards, and certain misdemeanor convictions, to be posted indefinitely on the board's Internet Web site. *This bill would also reduce the period that settlement information is required to be posted on the Internet Web site from 10 years to 5 years. This bill would require that public letters of reprimand issued within the past 10 years by the board*

or the board of another jurisdiction be posted on the board's Internet Web site.

Existing law authorizes the board, by stipulation or settlement with the affected physician and surgeon, to issue a public letter of reprimand after it has conducted an investigation or inspection as specified, rather than filing or prosecuting a formal accusation.

Existing law requires the board to disclose information regarding any enforcement actions taken against a licensee, including, among other things, public letters of reprimand issued, to an inquiring member of the public, as specified.

This bill would make a clarifying and conforming change regarding the disclosure of public letters of reprimand to an inquiring member of the public by deleting a conflicting provision that authorizes, rather than requires, the board to disclose those public letters of reprimand.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 2027 of the Business and Professions~~
2 ~~Code is amended to read:~~
3 ~~2027. (a) The board shall post on the Internet the following~~
4 ~~information in its possession, custody, or control regarding licensed~~
5 ~~physicians and surgeons:~~
6 ~~(1) With regard to the status of the license, whether or not the~~
7 ~~licensee is in good standing, subject to a temporary restraining~~
8 ~~order (TRO), subject to an interim suspension order (ISO), or~~
9 ~~subject to any of the enforcement actions set forth in Section 803.1.~~
10 ~~(2) With regard to prior discipline, whether or not the licensee~~
11 ~~has been subject to discipline by the board or by the board of~~
12 ~~another state or jurisdiction, as described in Section 803.1.~~
13 ~~(3) Any felony convictions reported to the board after January~~
14 ~~3, 1991.~~
15 ~~(4) All current accusations filed by the Attorney General,~~
16 ~~including those accusations that are on appeal. For purposes of~~
17 ~~this paragraph, "current accusation" shall mean an accusation that~~
18 ~~has not been dismissed, withdrawn, or settled, and has not been~~
19 ~~finally decided upon by an administrative law judge and the~~
20 ~~Medical Board of California unless an appeal of that decision is~~
21 ~~pending.~~

1 ~~(5) Any malpractice judgment or arbitration award reported to~~
2 ~~the board after January 1, 1993.~~

3 ~~(6) Any hospital disciplinary actions that resulted in the~~
4 ~~termination or revocation of a licensee's hospital staff privileges~~
5 ~~for a medical disciplinary cause or reason. The posting shall also~~
6 ~~provide a link to any additional explanatory or exculpatory~~
7 ~~information submitted electronically by the licensee pursuant to~~
8 ~~subdivision (f) of Section 805.~~

9 ~~(7) Any misdemeanor conviction that results in a disciplinary~~
10 ~~action or an accusation that is not subsequently withdrawn or~~
11 ~~dismissed.~~

12 ~~(8) Appropriate disclaimers and explanatory statements to~~
13 ~~accompany the above information, including an explanation of~~
14 ~~what types of information are not disclosed. These disclaimers and~~
15 ~~statements shall be developed by the board and shall be adopted~~
16 ~~by regulation.~~

17 ~~(9) Any information required to be disclosed pursuant to Section~~
18 ~~803.1.~~

19 ~~(10) Settlement information, which shall be posted as described~~
20 ~~in paragraph (2) of subdivision (b) of Section 803.1.~~

21 ~~(b) Upon receipt of a certified copy of an expungement order~~
22 ~~granted pursuant to Section 1203.4 of the Penal Code from a~~
23 ~~licensee, the board shall, within six months of receipt of the~~
24 ~~expungement order, post notification of the expungement order~~
25 ~~and the date thereof on its Internet Web site.~~

26 ~~(c) (1) From January 1, 2003, the information described in~~
27 ~~paragraph (1) of subdivision (a) regarding whether a licensee is~~
28 ~~subject to a temporary restraining order (TRO) or an interim~~
29 ~~suspension order (ISO), the information in paragraph (4) of~~
30 ~~subdivision (a), and information on public letters of reprimand~~
31 ~~shall remain posted on the board's Internet Web site for a period~~
32 ~~of 10 years from the date the board obtains possession, custody,~~
33 ~~or control of the information, and after the end of that period the~~
34 ~~information shall be removed from the board's Internet Web site.~~

35 ~~(2) Except as provided in paragraph (3), if a licensee's hospital~~
36 ~~staff privileges are restored and the licensee notifies the board of~~
37 ~~the restoration, the information pertaining to the termination or~~
38 ~~revocation of those privileges, as described in paragraph (6) of~~
39 ~~subdivision (a), shall remain posted on the board's Internet Web~~
40 ~~site for a period of 10 years from the restoration date of the~~

1 privileges, and at the end of that period the information shall be
2 removed from the board's Internet Web site.

3 (3) ~~If a court finds, in a final judgment, that peer review resulting~~
4 ~~in a hospital disciplinary action was conducted in bad faith and~~
5 ~~the licensee notifies the board of that finding, the information~~
6 ~~concerning that hospital disciplinary action posted pursuant to~~
7 ~~paragraph (6) of subdivision (a) shall be immediately removed~~
8 ~~from the board's Internet Web site. For purposes of this paragraph,~~
9 ~~"peer review" has the same meaning as defined in Section 805.~~

10 (d) ~~The board shall also post on the Internet a factsheet that~~
11 ~~explains and provides information on the reporting requirements~~
12 ~~under Section 805.~~

13 (e) ~~The board shall provide links to other Web sites on the~~
14 ~~Internet that provide information on board certifications that meet~~
15 ~~the requirements of subdivision (b) of Section 651. The board may~~
16 ~~provide links to other Web sites on the Internet that provide~~
17 ~~information on health care service plans, health insurers, hospitals,~~
18 ~~or other facilities. The board may also provide links to any other~~
19 ~~sites that would provide information on the affiliations of licensed~~
20 ~~physicians and surgeons.~~

21 *SECTION 1. Section 2027 of the Business and Professions*
22 *Code is repealed.*

23 2027. (a) ~~The board shall post on the Internet the following~~
24 ~~information in its possession, custody, or control regarding licensed~~
25 ~~physicians and surgeons:~~

26 (1) ~~With regard to the status of the license, whether or not the~~
27 ~~licensee is in good standing, subject to a temporary restraining~~
28 ~~order (TRO), subject to an interim suspension order (ISO), or~~
29 ~~subject to any of the enforcement actions set forth in Section 803.1.~~

30 (2) ~~With regard to prior discipline, whether or not the licensee~~
31 ~~has been subject to discipline by the board or by the board of~~
32 ~~another state or jurisdiction, as described in Section 803.1.~~

33 (3) ~~Any felony convictions reported to the board after January~~
34 ~~3, 1991.~~

35 (4) ~~All current accusations filed by the Attorney General,~~
36 ~~including those accusations that are on appeal. For purposes of~~
37 ~~this paragraph, "current accusation" shall mean an accusation that~~
38 ~~has not been dismissed, withdrawn, or settled, and has not been~~
39 ~~finally decided upon by an administrative law judge and the~~

1 Medical Board of California unless an appeal of that decision is
2 pending.

3 ~~(5) Any malpractice judgment or arbitration award reported to~~
4 ~~the board after January 1, 1993.~~

5 ~~(6) Any hospital disciplinary actions that resulted in the~~
6 ~~termination or revocation of a licensee's hospital staff privileges~~
7 ~~for a medical disciplinary cause or reason. The posting shall also~~
8 ~~provide a link to any additional explanatory or exculpatory~~
9 ~~information submitted electronically by the licensee pursuant to~~
10 ~~subdivision (f) of Section 805.~~

11 ~~(7) Any misdemeanor conviction that results in a disciplinary~~
12 ~~action or an accusation that is not subsequently withdrawn or~~
13 ~~dismissed.~~

14 ~~(8) Appropriate disclaimers and explanatory statements to~~
15 ~~accompany the above information, including an explanation of~~
16 ~~what types of information are not disclosed. These disclaimers and~~
17 ~~statements shall be developed by the board and shall be adopted~~
18 ~~by regulation.~~

19 ~~(9) Any information required to be disclosed pursuant to Section~~
20 ~~803.1.~~

21 ~~(b) Upon receipt of a certified copy of an expungement order~~
22 ~~granted pursuant to Section 1203.4 of the Penal Code from a~~
23 ~~licensee, the board shall, within six months of receipt of the~~
24 ~~expungement order, post notification of the expungement order~~
25 ~~and the date thereof on its Internet Web site.~~

26 ~~(c) (1) From January 1, 2003, the information described in~~
27 ~~paragraphs (1) (other than whether or not the licensee is in good~~
28 ~~standing), (2), (4), (5), (7), and (9) of subdivision (a) shall remain~~
29 ~~posted for a period of 10 years from the date the board obtains~~
30 ~~possession, custody, or control of the information, and after the~~
31 ~~end of that period shall be removed from being posted on the~~
32 ~~board's Internet Web site. Information in the possession, custody,~~
33 ~~or control of the board prior to January 1, 2003, shall be posted~~
34 ~~for a period of 10 years from January 1, 2003. Settlement~~
35 ~~information shall be posted as described in paragraph (2) of~~
36 ~~subdivision (b) of Section 803.1.~~

37 ~~(2) The information described in paragraphs (3) and (6) of~~
38 ~~subdivision (a) shall not be removed from being posted on the~~
39 ~~board's Internet Web site.~~

~~(3) Notwithstanding paragraph (2) and except as provided in paragraph (4), if a licensee's hospital staff privileges are restored and the licensee notifies the board of the restoration, the information pertaining to the termination or revocation of those privileges, as described in paragraph (6) of subdivision (a), shall remain posted for a period of 10 years from the restoration date of the privileges, and at the end of that period shall be removed from being posted on the board's Internet Web site.~~

~~(4) Notwithstanding paragraph (2), if a court finds, in a final judgment, that peer review resulting in a hospital disciplinary action was conducted in bad faith and the licensee notifies the board of that finding, the information concerning that hospital disciplinary action posted pursuant to paragraph (6) of subdivision (a) shall be immediately removed from the board's Internet Web site. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.~~

~~(d) The board shall also post on the Internet a factsheet that explains and provides information on the reporting requirements under Section 805.~~

~~(e) The board shall provide links to other Web sites on the Internet that provide information on board certifications that meet the requirements of subdivision (b) of Section 651. The board may provide links to other Web sites on the Internet that provide information on health care service plans, health insurers, hospitals, or other facilities. The board may also provide links to any other sites that would provide information on the affiliations of licensed physicians and surgeons.~~

SEC. 2. Section 2027 is added to the Business and Professions Code, to read:

2027. (a) The board shall post on its Internet Web site the following information on the current status of the license for all licensees:

(2) Current American Board of Medical Specialties certification or board equivalent as certified by the board.

(3) Any of the following enforcement actions or proceedings to which the licensee is actively subjected:

(A) Temporary restraining orders.

(B) Interim suspension orders.

(C) Revocations, suspensions, probations, or limitations on practice ordered by the board or the board or another state or

1 *jurisdiction, including those made part of a probationary order*
2 *or stipulated agreement.*

3 *(D) Current accusations filed by the Attorney General, including*
4 *those accusations that are on appeal. For purposes of this*
5 *paragraph, “current accusation” means an accusation that has*
6 *not been dismissed, withdrawn, or settled, and has not been finally*
7 *decided upon by an administrative law judge and the board unless*
8 *an appeal of that decision is pending.*

9 *(E) Citations issued that have not been resolved or appealed*
10 *within 30 days.*

11 *(b) The board shall post on its Internet Web site all of the*
12 *following historical information in its possession, custody, or*
13 *control regarding all licensees:*

14 *(1) Approved postgraduate training.*

15 *(2) Any final revocations and suspensions, or other equivalent*
16 *actions, taken against the licensee by the board or the board of*
17 *another state or jurisdiction or the surrender of a license by the*
18 *licensee in relation to a disciplinary action or investigation,*
19 *including the operative accusation resulting in the license*
20 *surrender or discipline by the board.*

21 *(3) Probation or other equivalent action ordered by the board,*
22 *or the board of another state or jurisdiction, completed or*
23 *terminated, including the operative accusation resulting in the*
24 *discipline by the board.*

25 *(4) Any felony convictions. Upon receipt of a certified copy of*
26 *an expungement order granted pursuant to Section 1203.4 of the*
27 *Penal Code from a licensee, the board shall, within six months of*
28 *receipt of the expungement order, post notification of the*
29 *expungement order and the date thereof on its Internet Web site.*

30 *(5) Misdemeanor convictions resulting in a disciplinary action*
31 *or accusation that is not subsequently withdrawn or dismissed.*
32 *Upon receipt of a certified copy of an expungement order granted*
33 *pursuant to Section 1203.4 of the Penal Code from a licensee, the*
34 *board shall, within six months of receipt of the expungement order,*
35 *post notification of the expungement order and the date thereof*
36 *on its Internet Web site.*

37 *(6) Civil judgments issued in any amount, whether or not*
38 *vacated by a settlement after entry of the judgment, that were not*
39 *reversed on appeal, and arbitration awards issued in any amount,*
40 *for a claim or action for damages for death or personal injury*

1 *caused by the physician and surgeon's negligence, error, or*
2 *omission in practice, or by his or her rendering of unauthorized*
3 *professional services.*

4 *(7) Except as provided in subparagraphs (A) and (B), a summary*
5 *of any final hospital disciplinary actions that resulted in the*
6 *termination or revocation of a licensee's hospital staff privileges*
7 *for a medical disciplinary cause or reason. The posting shall*
8 *provide any additional explanatory or exculpatory information*
9 *submitted by the licensee pursuant to subdivision (f) of Section*
10 *805. The board shall also post on its Internet Web site a factsheet*
11 *that explains and provides information on the reporting*
12 *requirements under Section 805.*

13 *(A) If a licensee's hospital staff privileges are restored and the*
14 *licensee notifies the board of the restoration, the information*
15 *pertaining to the termination or revocation of those privileges*
16 *shall remain posted on the Internet Web site for a period of 10*
17 *years from the restoration date of the privileges, and at the end of*
18 *that period shall be removed.*

19 *(B) If a court finds, in a final judgment, that peer review*
20 *resulting in a hospital disciplinary action was conducted in bad*
21 *faith and the licensee notifies the board of that finding, the*
22 *information concerning that hospital disciplinary action posted*
23 *on the Internet Web site shall be immediately removed. For*
24 *purposes of this subparagraph, "peer review" has the same*
25 *meaning as defined in Section 805.*

26 *(8) Public letters of reprimand issued within the past 10 years*
27 *by the board or the board of another state or jurisdiction, including*
28 *the operative accusation, if any, resulting in discipline by the*
29 *board.*

30 *(9) Citations issued within the last three years that have been*
31 *resolved by payment of the administrative fine or compliance with*
32 *the order of abatement.*

33 *(10) All settlements within the last five years in the possession,*
34 *custody, or control of the board shall be disclosed for a licensee*
35 *in the low-risk category if there are three or more settlements for*
36 *that licensee within the last five years, and for a licensee in the*
37 *high-risk category if there are four or more settlements for that*
38 *licensee within the last five years. Classification of a licensee in*
39 *either a "high-risk category" or a "low-risk" category depends*
40 *upon the specialty or subspecialty practiced by the licensee and*

1 *the designation assigned to that specialty or subspecialty by the*
2 *board pursuant to subdivision (f) of Section 803.1.*

3 *(A) For the purposes of this paragraph, "settlement" means a*
4 *settlement in an amount of thirty thousand dollars (\$30,000) or*
5 *more of any claim or action for damages for death or personal*
6 *injury caused by the physician and surgeon's negligence, error,*
7 *or omission in practice, or by his or her rendering of unauthorized*
8 *professional services.*

9 *(B) For the purposes of this paragraph, "settlement" does not*
10 *include a settlement by a licensee, regardless of the amount paid,*
11 *when (i) the settlement is made as a part of the settlement of a*
12 *class claim, (ii) the amount paid in settlement of the class claim*
13 *is the same amount paid by the other licensees in the same class*
14 *or similarly situated licensees in the same class, and (iii) the*
15 *settlement was paid in the context of a case for which the complaint*
16 *that alleged class liability on behalf of the licensee also alleged a*
17 *products liability class action cause of action.*

18 *(C) The board shall not disclose the actual dollar amount of a*
19 *settlement, but shall disclose settlement information in the same*
20 *manner and with the same disclosures required under*
21 *subparagraph (B) of paragraph (2) of subdivision (b) of Section*
22 *803.1.*

23 *(11) Appropriate disclaimers and explanatory statements to*
24 *accompany the information described in paragraphs (1) to (10),*
25 *inclusive, including an explanation of what types of information*
26 *are not disclosed. These disclaimers and statements shall be*
27 *developed by the board and shall be adopted by regulation.*

28 *(c) The board shall provide links to other Internet Web sites*
29 *that provide information on board certifications that meet the*
30 *requirements of subdivision (b) of Section 851. The board may*
31 *also provide links to any other Internet Web sites that provide*
32 *information on the affiliations of licensed physicians and surgeons.*
33 *The board may provide links to other Internet Web sites on the*
34 *Internet that provide information on health care service plans,*
35 *health insurers, hospitals, or other facilities.*

36 ~~SEC. 2.~~

37 *SEC. 3. Section 2233 of the Business and Professions Code is*
38 *amended to read:*

39 *2233. The board may, by stipulation or settlement with the*
40 *affected physician and surgeon, issue a public letter of reprimand*

1 after it has conducted an investigation or inspection as provided
2 in this article, rather than filing or prosecuting a formal accusation.
3 The public letter of reprimand may, at the discretion of the board,
4 include a requirement for specified training or education. The
5 affected physician and surgeon shall indicate agreement or
6 nonagreement in writing within 30 days of formal notification by
7 the board of its intention to issue the letter. The board, at its option,
8 may extend the response time. Use of a public reprimand shall be
9 limited to minor violations and shall be issued under guidelines
10 established by regulations of the board.

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